

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: DEP has several cases involving trusts or inheritances that can be resolved by this bill. The provisions of the bill will allow an unknown number of petroleum contaminated sites to remain eligible for state-funded clean up, which may otherwise become ineligible under current law.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

In 2005, the Legislature created the Innocent Victim Petroleum Storage System Restoration Program to provide state clean-up assistance to property owners of petroleum-contaminated sites that were acquired prior to July 1, 1990. To be eligible for clean up, the site must have ceased operating as a petroleum storage or retail business prior to January 1, 1985. Section 376.30715, F.S., provides:

A contaminated site acquired prior to July 1, 1990, which has ceased operating as a petroleum storage or retail business prior to January 1, 1985, is eligible for financial assistance pursuant to s. 376.305(6), notwithstanding s. 376.305(6)(a). Eligible sites shall be ranked in accordance with s. 376.3071(5).

The term "acquired" is not defined in Section 376.031, F.S. As a result, the term acquired has caused considerable debate in understanding the eligibility requirements of the Innocent Victim Petroleum Storage System Restoration Program. The debate has arisen when an owner of a contaminated property has, after July 1, 1990, transferred the property into a revocable trust or inherited the property as a surviving spouse. DEP has determined that moving the property into a revocable trust or a surviving spouse inheriting the property does constitute a change in ownership.

Effect of Proposed Change

The bill provides that a conveyance of property to a spouse, a surviving spouse in trust or free of trust, or a revocable trust created for the benefit of the settlor, does not disqualify the site from participating in the Innocent Victim Petroleum Storage System Restoration Program. It also clarifies that the current property owner of the contaminated site must have acquired the property prior to July 1, 1990.

C. SECTION DIRECTORY:

Section 1: Amends s. 376.30715, F.S., the Innocent Victim Petroleum Storage System Restoration Program to provide that a conveyance of property to a spouse, a surviving spouse in trust or free of trust, or a revocable trust created for the benefit of the settlor, does not disqualify an applicant from participating in the program. This section also clarifies that the current property owner must have acquired the property prior to July 1, 1990.

Section 2: Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will enable certain transfers of title of approximately nine contaminated property sites to remain eligible for state-funded clean-up relating to petroleum contamination.

D. FISCAL COMMENTS:

The provisions of the bill will allow an unknown total number of petroleum contaminated sites to remain eligible for state-funded clean up, which may otherwise become ineligible under current law. DEP has currently identified four contaminated sites that would be eligible for state-funded clean up as a result of this bill becoming law. At an average cost of \$400,000 to clean a contaminated site, the bill has a potential fiscal impact of \$1.6 million on state trust funds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No Statement Submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 19, 2008, the Environment & Natural Resources Council passed HB 1091 with one traveling amendment by the Committee on Environmental Protection. The original bill was amended to correct a statutory cross-reference.